

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

Charles James Atcitty,

Plaintiff,

V.

United States of America,

Defendant.

No. 1:20-cv-00515 DHU-DLM

DECLARATION OF MARY CHRISTOFFERSON

1. I am a Senior Attorney in the General Law Division, Office of the General Counsel, Department of Health and Human Services (the “Department”). I am familiar with the official records of administrative tort claims maintained by the Department as well as with the system by which those records are maintained.

2. The Department has a Claims Office that maintains in a computerized database a record of administrative tort claims filed with the Department, including those filed with respect to federally supported health centers that have been deemed to be eligible for Federal Tort Claims Act malpractice coverage.

3. As a consequence, if an administrative tort claim had been filed with the Department with respect to Kayenta Health Center, its approved delivery sites, or its employees and/or qualified contractors, a record of that filing would be maintained in the Claims Office database.

4. I have caused a search of the Claims Office’s database to be conducted and found that an administrative tort claim (“SF-95 form”) was filed on July 9, 2018, by Charles J. Atcitty relating to medical treatment he received at Kayenta Health Center, by Dr. Jose M. Borrego, Dr.

Jon A. Ossen, Dr. Sandra Merino Navarro, and Dr. Noelle Wolff. The SF-95 claim was assigned Claim No. 2018-0549. The same claim was amended on January 17, 2019, when the Agency received Mr. Atcitty's attorney's letter and SF-95 form that increased his damages claim. True and correct copies of Mr. Atcitty's SF-95 forms are attached hereto as Exhibits A-1 and A-2.

5. Mr. Atcitty's administrative tort claim including its amendment was denied in writing by certified mail by the Agency on November 27, 2019, in which the Agency informed Mr. Atcitty's attorney that if he was dissatisfied with the denial, the claimant had the option to request reconsideration of the final determination denying the claim within (6) months from the date of mailing of the letter or file suit against the United States in the appropriate federal district court within six (6) months from the date of mailing of the same letter. A true and correct copy of the denial letter is attached hereto as Exhibit B.

6. A search of the Claims Office's database also found that a reconsideration request was filed on May 28, 2020, by Charles J. Atcitty relating to Kayenta Health Center and its providers. The request for reconsideration was untimely since it was presented beyond the six (6) month period to make it.

I declare under penalty of perjury that the foregoing is true and correct. 28 U.S.C. § 1746.

Dated at Washington, D.C., this 18th day of August, 2023.



MARY CHRISTOFFERSON
Agency Attorney
General Law Division
Office of the General Counsel
Department of Health and Human Services